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MT LEGISLATIVE HISTORY

Chapter 644 1989

Bill (H) 364 S _____ Original bill & hist. ✓C

H. Committee on Education & Cultural Resources		S. Committee on Education & Cultural Resources	
Hearing Date(s) Feb 06	✓C	Hearing Date(s) Mar 10	✓C
Feb 13	✓C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Feb 13	✓C	Mar 10	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 364

INTRODUCED BY R. NELSON, CONNELLY,
SQUIRES, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

JANUARY 23, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
JANUARY 24, 1989	FIRST READING.
JANUARY 27, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES CONNELLY AND SQUIRES AND SENATORS B. BROWN AND HARP ADDED AS SPONSORS.
FEBRUARY 14, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1989	PRINTING REPORT.
FEBRUARY 16, 1989	SECOND READING, DO PASS.
FEBRUARY 17, 1989	ENGROSSING REPORT.
FEBRUARY 18, 1989	THIRD READING, PASSED. AYES, 93; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
MARCH 6, 1989	ON MOTION, REREFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
MARCH 13, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.
	IN THE HOUSE
MARCH 30, 1989	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
MARCH 31, 1989	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
APRIL 5, 1989	REPORTED CORRECTLY ENROLLED.
APRIL 6, 1989	SIGNED BY SPEAKER.
	IN THE SENATE
APRIL 7, 1989	SIGNED BY PRESIDENT.
	IN THE HOUSE
APRIL 7, 1989	DELIVERED TO GOVERNOR.
APRIL 12, 1989	RETURNED FROM GOVERNOR WITH RECOMMENDED AMENDMENTS.
APRIL 13, 1989	SECOND READING, GOVERNOR'S RECOMMENDED AMENDMENTS CONCURRED IN.
APRIL 14, 1989	THIRD READING, GOVERNOR'S RECOMMENDED AMENDMENTS CONCURRED IN.
	TRANSMITTED TO SENATE.
	IN THE SENATE
APRIL 18, 1989	SECOND READING, GOVERNOR'S RECOMMENDED AMENDMENTS CONCURRED IN.

APRIL 19, 1989	THIRD READING, GOVERNOR'S RECOMMENDED AMENDMENTS CONCURRED IN.
	RETURNED TO HOUSE.
	IN THE HOUSE
APRIL 19, 1989	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 364

INTRODUCED BY R. Nelson

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A STUDENT'S ATTENDANCE IN SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT FROM IMMUNIZATION ON PERSONAL OR RELIGIOUS GROUNDS; TO REMOVE THE LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY BE EXCLUDED FROM SCHOOL DURING A DISEASE OUTBREAK IF THE STUDENT IS EXEMPT FROM IMMUNIZATION REQUIREMENTS; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-402, MCA, is amended to read:

"**20-5-402. Definitions.** For the purposes of this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Governing authority" means the board of trustees of a school district or the administrator of a private school, preschool, vocational-technical center, college, or university.

(3) "Immunization" means induction of a state of resistance to a disease through administration of an immunizing agent.

(4) "Local health officer ~~or department~~" means a city, city-county, county, or district health officer ~~or department~~.

(5) "Local health department" means a city, city-county, county, or district health department.

(6) "Preschool" means a place or facility that provides, on a regular basis and as its primary purpose, educational instruction designed for children 5 years of age or younger and that:

(a) serves no child under 5 years of age for more than 3 hours a day; and

(b) serves no child 5 years of age for more than 6 hours a day.

~~(5)~~(7) "School" means ~~an~~ a place or institution for the teaching of individuals, including a preschool, any establishment the curriculum of which is comprised of the work of any combination of kindergarten through grade 12, a vocational-technical center, a college, or a university."

Section 2. Section 20-5-403, MCA, is amended to read:

LC 0863/01

INTRODUCED BILL
HB 364

"20-5-403. Immunization required -- grace period for transfers. (1) The governing authority of any school may not allow any person to commence attendance as a pupil unless the person:

(a) has been immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubella, mumps, and measles (rubeola) in the manner and with immunizing agents approved by the department, except that pertussis vaccination is not required for a person 7 years of age or older;

(b) qualifies for conditional attendance;

(c) files for an exemption; or

(d) is a pupil transferring from another school district, in which case the provisions of subsection (2) apply.

(2) A person who transfers from one school district to another has 30 calendar days after commencement of attendance at the school to which he or she transfers to either complete immunization as specified in subsection (1)(a), commence immunization in the manner required by 20-5-404, or file for an exemption. If none of the foregoing actions is taken within 30 days, the transfer pupil is prohibited from further attendance until such an action is taken."

Section 3. Section 20-5-404, MCA, is amended to read:

"20-5-404. Conditional attendance. The governing

authority of a school may allow the commencement of attendance in school by a person who has not been immunized against each disease listed in 20-5-403 if that person has received one or more doses of polio, measles (rubeola), mumps, rubella, diphtheria, pertussis, and tetanus vaccine, except that pertussis vaccine is not required for a person 7 years of age or older."

Section 4. Section 20-5-405, MCA, is amended to read:

"20-5-405. ~~Personal,--religious,--or--medical~~ Medical exemption. ~~(1)--When-a-parent,-guardian,-or-adult-who-has-the-responsibility--for--the-care-and-custody-of-a-minor-seeking-to-attend-school,-or-the-person-seeking-to-attend-school,-if-an-adult,-signs-and-files-with--the--governing--authority--a-written--statement--on--a--form-prescribed-by-the-department-stating-that-immunization-is-contrary--to--the--personal--or-religious--beliefs-of-the-signer,-immunization-of-the-person-seeking-to-attend--school--may--not--be--required--prior--to-commencement-of-attendance-in-any-school.--The-statement-must-be--maintained-as-part-of-the-person's-immunization-records.~~

~~(2)~~(1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, files with the governing authority a written statement signed by a physician licensed to practice medicine in any jurisdiction of the United States or Canada

stating that the physical condition of the person seeking to attend school or medical circumstances relating to him indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization, he is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

~~(3)~~(2) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to such disease, the person may be excluded from the school by the local health officer or the local health department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease. ~~The--exclusion--period--may--not exceed-30-calendar-days.~~"

NEW SECTION. **Section 5.** **Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 6.** **Severability.** If a part of [this act] is invalid, all valid parts that are severable

from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 7.** **Effective date.** [This act] is effective July 1, 1989.

-End-

Questions From Committee Members: Chairman Schye asked James Moulds if he understood him to say the elementary tuition could be waived and Mr. Moulds replied yes he believed it could. Chairman Schye then stated he did not think the elementary tuition could be waived on a pupil to pupil basis. He continued that at the high school level tuition could be waived on a pupil to pupil basis so there could be quite a difference. Mr. Moulds said he was not aware of the difference between the elementary and high school provisions.

Rep. Eudaily asked James Moulds if eliminating tuition payments entirely as proposed in many of the new funding systems for education could help solve the problem. Mr. Moulds replied he would think it would help in the solution however, he was not certain of all the ramifications of waiving tuitions on a statewide basis.

Closing by Sponsor: Rep. Zook thanked the Committee for the hearing and suggested a positive vote for HB 455.

DISPOSITION OF HB 455

Motion: Rep. Eudaily made the motion that HB 455 DO PASS.

Discussion: Rep. Stang said he felt this bill could benefit large districts but small districts that are close together would have problems. He said right now districts in his area would do anything to get kids into their schools.

Chairman Schye stated tuition is different in that high school tuition is student to student where in elementary this isn't the case. He also said if members of the committee wanted to look further into the ramifications of the bill Rep. Eudaily could withdraw his motion. However, he cautioned that the transmittal deadline was close at hand.

Rep. Thomas said the committee should act on HB 455.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Motion CARRIED that HB 455 DO PASS upon roll call vote, 12 yes and 8 no.

HEARING ON HB 364

Presentation and Opening Statement by Sponsor:

Rep. Richard Nelson, District 6, Kalispell said the Montana Immunization Law has proven effective in reducing the incidence of disease in Montana children due to vaccine

preventable diseases. He said the proposed legislation changes are intended to reduce the potential for disease introduction into the school systems and allows the county health officers to determine appropriate control measures, including length of exclusion from school during outbreak.

Testifying Proponents and Who They Represent:

Dr. Donald Espelin, Department of Health and Environmental Sciences
Dick Paulsen, Manager, Montana Immunization Program, Department of Health and Environmental Sciences
Michael Anderson, Principal, Russell Elementary School, Kalispell
Edward Michalewicz, Dr. PH, Public Health Administrator, Flathead City-County Health Department, Kalispell
LeRoy Schramm, Chief Legal Council, Board of Regents
Jesse Long, School Administrators of Montana (SAM)

Proponent Testimony:

Dr. Donald Espelin said HB 364 would aide in the control of vaccine preventable diseases. He said the recent outbreaks in Flathead and Silver Bow Counties stretched his department to the maximum and Montana can not afford additional outbreaks in the future. In the coming year Montana will have a $400,000.00 shortfall in the immunization program that provides basic immunization vaccine to clinics.

Dick Paulsen, (EXHIBITS 8 and 9.)

Michael Anderson said he supports HB 364 and would make it even stronger requiring a child to be fully immunized before he or she could even get through the school doors. He said the recent outbreak in Flathead County put a terrible strain on the schools. He also stated school officials and teachers want the children in school to teach them and then have to tell parents they must keep them home because they are not immunized.

Edward Michalewicz, (EXHIBIT 10.)

LeRoy Schramm said the amendments to HB 364 were developed by the Department of Health and Environmental Sciences and the Board of Regents (EXHIBIT 9.). He said the amendments leave post-secondary schools in the bill and define them as colleges, universities, and vocational-technical schools requiring students to be vaccinated for measles and rubella. He also stated the Board of Regents recently adopted a policy requiring measles and rubella vaccination for all students in the University System. In effect then, the amendment would reflect and parallel Regents policy. This requirement is consistent with recommendation from the American College Health Association.

Jesse Long said SAM would favor excluding the exemption for personal and religious reasons leaving medical as the only exemption if it were constitutional to do so.

Testifying Opponents and Who They Represent:

Les Conger, Christian Science Committee on Publication for Montana

Opponent Testimony:

Les Conger, (EXHIBITS 11 and 12.)

Questions From Committee Members: Rep. Simpkins said the Montana Constitution states no person will be excluded from school for religious reason and asked Dick Paulsen if there would be legal problems if a child was refused admittance to school if he or she was not inoculated due to religious reasons. Mr. Paulsen answered that he was not a lawyer and was not sure.

Rep. Harrington asked Dick Paulsen if the Supreme court has ruled states can pass laws forcing people to become immunized and he replied he did not know.

Rep. Wallin asked Jesse Long if the suggested amendment agrees with Mr. Conger's views and he said the personal exemption needs to be removed obligating parents to get their children immunized however, a religious exemption would be permissible. He said he would concur with the Department of Health and Environmental Sciences that removal of the personal exemption would cover a larger number of students.

Rep. Eudaily asked Dick Paulsen how long the outbreak in Kalispell lasted and he replied it started October 12, 1988 and the last rash onset was December 30, 1988.

Rep. Eudaily asked LeRoy Schramm under what conditions a college student could file for an exemption and he replied that at the present time there is no policy dealing with exemptions on the college level. Mr. Schramm continued that there really isn't a constitutional issue on the college level because the right to a college education is not a basic fundamental right as is the case with primary and secondary education.

Chairman Schye asked Dick Paulsen what the numbers of statewide exemptions would be and he said based on school reports last year of reporting schools, and not all schools report, there were 2,300 students with personal exemptions and 350 students with religious exemptions. Chairman Schye then asked what the personal exemptions would be and Mr. Paulsen he replied they could be those

using alternative methods of medicine not recognizing standard medical practices and there are some parents who simply do not want to immunize. Mr. Paulsen also added he didn't have the numbers from home schools.

Closing by Sponsor: Rep. Nelson thanked the committee for the hearing and urged a positive vote on HB 364.

HEARING ON HB 449

Presentation and Opening Statement by Sponsor:

Rep. Ted Schye, District 18, Glasgow stated HB 449 would provide stability for Special Education Cooperatives and provide a firm basis for planning and budgeting.

Testifying Proponents and Who They Represent:

Robert Runkel, Director of Special Education, Office of Public Instruction (OPI)
Fred Apellman, Montana Council of Administrators of Special Education
Phil Campbell, Montana Education Association (MEA)
Jesse Long, School Administrators of Montana (SAM)
Bill Pellant, Director of Bitterroot Valley Special Education
Cris Volinkaty, "Parents Let's Unite for Kids"
Bruce Moerer, Montana School Boards Association (MSBA)
Kelly Evans, Director of Special Education Co-op, Southwest Montana

Proponent Testimony:

Robert Runkel said HB 449 is intended to provide needed stability to Special Education Co-ops and provides authority to the OPI to establish rules for approval of formation of cooperatives and incentives to participate in them. He also said the program requires a three year commitment to participate and provides a mild financial incentive which should serve as a catalyst to schools.

Fred Apellman, (EXHIBITS 13 and 14.)

Phil Campbell said the MEA had difficulty in the past working out problems with the special Education Co-ops and that HB 449 is a step in the right direction towards much needed stability and security for the employees of the co-ops. He said previously participants could move in and out of the co-ops at will, which doesn't provide for good employer and employee relations.

Jesse Long stated support for HB 449 also on the basis of stability.

Bill Pellant said when a participant in a co-op can drop out at

DAILY ROLL CALL

EDUCATION & CULTURAL RESOURCES COMMITTEE

DATE February 6, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ted Schye, Chairman	✓		
Rep. Fritz Daily, Vice-Chairman	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Paula Darko	✓		
Rep. Ervin Davis	✓		
Rep. Ralph Eudaily	✓		
Rep. Floyd Gervais	✓		
Rep. Bill Glaser	✓		
Rep. Dan Harrington	✓		
Rep. John Johnson	✓		
Rep. Tom Kilpatrick	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Richard Simpkins	✓		
Rep. Wilbur Spring, Jr.	✓		
Rep. Barry "Spook" Stang	✓		
Rep. Fred Thomas	✓		
Rep. Norm Wallin	✓		
Rep. Diana Wyatt	✓		
Rep. Tom Zook	✓		

Form CS-30A
Rev. 1985

EXHIBIT #8
DATE 2-6-89
HB 364

February 1989

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
FOR THE HOUSE EDUCATION AND CULTURAL RESOURCES COMMITTEE

MONTANA IMMUNIZATION LAW TESTIMONY
HB 364

Chairman Scheye and Committee members, I am Dick Paulsen and I submit this testimony, as the manager of the Montana Immunization program, on behalf of the Montana Department of Health and Environmental Sciences.

The Montana Immunization Law has proven effective in reducing illness due to vaccine-preventable diseases in Montana School children. These proposed legislative changes are intended to reduce the potential for disease introduction into the school system and allow the county health officer the ability to determine appropriate control measures, including length of exclusion, during an outbreak. Proposed changes in the law include; 1) broadening of the application of immunization law from only K-12 schools to other educational settings that play an important part in disease transmission. This change is based upon recent experiences with disease introduction and the continuation of outbreaks that have occurred in Montana since the enactment of the Montana Immunization Law in 1980, 2) it defines "pre-school" for use in the law, 3) it includes mumps as a necessary vaccine, 4) it removes personal and religious exemptions, 5) it removes the 30-day exclusion period for those excluded during outbreaks. The length of exclusion would then be determined by the county health officer who is responsible to determine what is necessary to control communicable disease outbreaks.

Religious and personal exemptions played an important part in starting the measles outbreaks that occurred in Glacier County and Great Falls. 137 cases were associated with the Glacier County outbreak which occurred in 1985. It was initiated by a student who had claimed a religious exemption, visited out of state and then brought measles back into Montana. 127 measles cases occurred in the statewide outbreak in 1987. It started in Great Falls and was initiated by a student with a personal exemption who had <u>not</u> traveled outside of Montana. Following the 1987 outbreak, a "measles critique" was sponsored by the Department which included six major health departments (Cascade, Missoula, Flathead, Lewis and Clark, Yellowstone, and Silver Bow Counties) and representatives from

the Indian Health Service and the Centers for Disease Control in Atlanta, Georgia. From that critique came a strong recommendation to remove the personal and religious exemptions from the Immunization Law. The Department has also received communication from the Montana Medical Association supporting a removal of religious and personal exemptions. Montana is in the minority of states that do allow philosophical exemptions. Presently, 28 states do not allow philosophical (personal) exemptions for school entry. There are states that also do not allow religious exemptions, including Mississippi and West Virginia. The Mississippi law was challenged in 1979 in a suit entitled, Brown v. Stone. From this suit, it was determined that the religious exemption was constitutional and the Mississippi State Supreme Court said that allowing a religious exemption would not be in the best interest of the health and welfare of the state. During the recent outbreak in Flathead County, there were 15 Flathead County High School students that had claimed personal exemptions and two that had claimed religious exemptions for measles for school entry. Upon exclusion from school, due to the outbreak, all students had returned to school as immunized except for one student who stayed out for the entire period due to a religious exemption. In the Great Falls outbreak in 1987, there were 21 personal and 13 religious exemptions in the junior high and high schools in Great Falls. Once those students were excluded due to the outbreak, all except for three students returned to school immunized. These examples of what happens during an outbreak, demonstrate how the exemptions are being abused. It is easier for the parents to sign an exemption rather than to take action to immunize their child. This puts the rest of the school system and communities at unnecessary risk to vaccine-preventable diseases.

College immunization requirements have been recommended by the Advisory Committee on Immunization Practices* (ACIP) since 1980 and the American College Health Association since 1983. The Board of Regents has recently developed a policy for implementing a measles and rubella immunization requirement for all students in the university system. The Department has met with the Commissioner

———— *Note: The ACIP is the group which sets the standard for public health practices related to immunization in the U.S.

of Higher Education several times and have agreed that the primary focus for the law, on prevention of vaccine preventable diseases in this population, is measles and rubella. Both of the Montana universities have already adopted similar requirements for entry. The proposed change in the law is intended to cover all post-secondary schools including those not in the university system. Post-secondary facilities have played an important part in measles outbreaks, not only in the United States but in Montana. There have been ten measles or rubella outbreaks on college campuses in Montana since 1976. This includes outbreaks, since 1987, effecting with both universities at Bozeman and Missoula, Rocky Mountain College, Eastern Montana College, and Flathead Valley Community College. Remember, measles is most serious in adults. At Principia College in Illinois, in 1985, there were three deaths in students due to measles. Since rubella has its most serious consequence related to pregnancy, it's very important to ensure that the college age group is well immunized against rubella. It has been extremely frustrating and difficult to stop measles outbreaks on college campuses when there is no required documentation of immunization for students.

Mumps was not included in the original draft of the immunization law primarily due to the fact that the immunization program was not able to provide mumps vaccine to all school-aged children due to cost. The program now provides mumps vaccine in the combined MMR vaccine. MMR is the vaccine of choice and is received by all children when they receive measles and rubella vaccination. Including mumps in the law would not be difficult for schools as they already have information on mumps vaccine included on the immunization records.

Pre-school and head start are also not included presently in the requirements for immunization laws and rules. There are some schools which have a pre-school within the school facility as listed in the Directory of Montana Schools published by the Office of Public Instruction. This is a dangerous mixture of potentially un-immunized children in a school setting.

Exclusion period being limited to 30 days in the law is contrary to what is recommended for outbreak control by the Centers for Disease Control. Unimmunized students should not be allowed into a school even if an outbreak continues past 30 days. During the recent outbreak in Kalispell, the situation arose where a student wanted to return to school after the 30-day period but still had not been immunized. The county health officer had to apply to the parent for the parent to decide not to send the children on their own accord. Local Health officers have the authority, by the Administrative Rules of Montana, to do what is necessary to control communicable disease in their county. The determination, on when the return should occur, should be made by a County Health Officers. Should the child return to school and develop measles because the law says they can return, the following could happen: 1) the child would be unnecessarily exposed to a dangerous disease, 2) the outbreak would continue with possible spread of the disease to others (especially other unimmunized siblings), and 3) the parents may have legal recourse against the state of Montana should the child get measles due to their return to school as presently allowed by the Montana Immunization Law.

In closing, Montana has experienced some serious problems related to vaccine-preventable diseases. We, in Montana, have been very lucky in that we have not had anybody die during our measles outbreaks. Texas is not so fortunate. In the current outbreak in Texas, there have been as many as five deaths that may be directly related to measles. This included a 21 year old who was 21 weeks pregnant. There was a child that died due to pertussis in Ravalli county in 1986. The Montana Immunization Law has played an important part in reducing the occurrence and subsequently the consequence of vaccine-preventable diseases. Apparently maintaining high immunization levels alone is not good enough. We have to keep these diseases from being seeded in our schools. Once a disease like measles gets into a school, it can spread very quickly as was seen again this year in the Flathead measles outbreak. The Montana School Immunization Law needs to be strengthened so that the potential for disease introduction into our population can be reduced. If these proposed changes are acted upon favorably, it would be a major step in ensuring the health and safety of Montanans. Your consideration is appreciated.

REP/vg-106d

EXHIBIT #9
DATE 2-6-89
HB 364

PROPOSED AMENDMENTS TO HOUSE BILL 364 [introduced copy]

REQUESTED JOINTLY BY THE BOARD OF REGENTS
AND
THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

1. Title, line 10.
Following: "IN"
Insert: "A"
Following: "SCHOOL"
Insert: "OTHER THAN A POST-SECONDARY SCHOOL"

2. Title, line 15.
Following: "THROUGH"
Strike: "20-5-405"
Insert: "20-5-406 AND 20-5-408"

3. Page 2.
Following: line 11
Insert: "(6) "Post-secondary school" means a vocational-technical center, a college, or a university."
Renumber: subsequent subsections

4. Page 2, lines 23 and 24.
Strike: "a" on line 23 through "vocational-technical center, a college, or a university" on line 24.
Insert: "or a post-secondary school"

5. Page 3, line 2.
Following: "school"
Insert: "other than a post-secondary school"

6. Page 3.
Following: line 23
Insert: "(3)(a) The governing authority of a post-secondary school may not allow any person to commence attendance as a pupil unless the person:

(i) has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or

(ii) files for an exemption.

(b) The governing authority of a post-secondary school may impose immunization requirements as a condition of attendance that are more stringent than those required by this part."

7. Page 4, line 1.
Following: "school"
Insert: "other than a post-secondary school"

8. Page 4, line 3.
Following: "in"
Strike: "20-5-403"
Insert: "20-5-403(1)"

9. Page 5.
Following: line 19
Insert: "**Section 5.** Section 20-5-406, MCA, is amended to read:

"20-5-406. Immunization record. The governing authority of each school shall require written evidence of each pupil's immunization against the diseases ~~listed~~ specified in 20-5-403 for the type of school in question and shall record the immunization of each pupil as part of his permanent school record on a form prescribed by the department."

Section 6. Section 20-5-408, MCA, is amended to read:

"20-5-408. Enforcement. (1) The governing authority of any school other than a post-secondary school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by the department until that pupil has been immunized as required by the department or unless that pupil has been exempted under 20-5-405.

(2) Each governing authority shall file a written report on the immunization status of all pupils under its jurisdiction with the department and the local health department at times and on forms prescribed by the department.

(3) The local and state health departments shall have access to all information relating to immunization of any pupil in any school.""
Renumber: subsequent sections.

EXHIBIT 2
DATE 2-6-89
HB 364

FLATHEAD CITY-COUNTY HEALTH DEPARTMENT
723 5th Ave. East
Kalispell, Montana 59901
Sanitation: 756-5632 Health Services: 756-5633

February 5, 1989

Ted Schye, Chairman
Education and Cultural Resources Committee
State Capitol
Helena, Montana 59620

Dear Chairman Schye:

The Flathead City/County Health Department thanks you for the opportunity to comment on HB-364 relative to the Montana State School Immunization Law. The present law is in need of some revisions in order to provide for better control and implementation of laws that pertain to control of communicable diseases.

The department supports changes that relate to the following:

1. Broadening the present law to include colleges, pre-school, day-care centers, and vocational/technical centers.

The present law applies only to K-12 schools. The communicable diseases are of concern to all and are of greater importance when they involve close contact of the same age groups. Classroom settings, extracurricular activities, play areas, food service areas, etc., all contribute to to the spread of communicable diseases. Diseases common to these groups can be controlled by the application of accepted public health practices.

2. Pre-school is defined.

This definition should include day care centers. As mentioned before, the closeness of similar age groups provides for the transmission of disease.

3. Mumps is included in the revised law.

A mumps vaccine is available and effective in preventing the disease and should be included in the list of preventable diseases.

4. Personal and religious exemptions are deleted from the law.

Personal exemptions were a method by which parents circumvented the law. In many cases parents were in a hurry, working or not available during the immunization hours and would not take their youngsters to be immunized. Once they were excluded from the requirement, they procrastinated and thus chose the easy way out and asked for personal exemption. Others chose religious exemptions and did not have their children immunized. Most faiths do not prohibit vaccinations, and this exemption is generally not valid.

5. The 30 day exclusion period during outbreaks will be revised to permit the county health officer to establish the exclusion period.

The present law has a 30 day exclusion period. Students who had personal or religious exemptions had to be permitted to return to school after 30 days. In the event of a disease outbreak, non-vaccinated students were subject to exposure. This not only places them in a serious position but also contributes to the possible continuation of the diseases outbreak. Therefore, the length of the exclusion should be left to the discretion of the health officer.

The revised law should also address the issue of non-vaccinated children being allowed into the school systems. A grace period only contributes to the spread of disease. Vaccinations are available through the private sector, as well as health departments. This is not necessarily such an inconvenience that ONE should be exluded. All should be vaccinated before being permitted to attend educational settings.

Sincerely,

Edward P. Michalewicz

Edward P. Michalewicz, [illegible]
Public Health Administrator

cc: Richard Paulsen
Rep. R. Nelson

EXHIBIT #11
DATE 2-6-89
HB 364

STATEMENT

House Bill 364 to expand school immunization requirements

My name is Les Conger. I am the Christian Science Committee on Publication for Montana. In this position I speak on behalf of those Montanans who are adherents of the Christian Science religion. One important part of my duties concerns legislation, that is watching proposed bills to insure the right of Christian Scientists to practice their religion free from restrictions or limitations.

I am grateful for the opportunity to make this statement today regarding House Bill 364. The author and sponsors of this bill obviously are concerned about the health of students in our schools statewide and curbing the spread of disease. The existing laws which this bill would change do give public health officials the authority to require students in public schools to be immunized. This bill would expand the coverage to include preschools, vocational-technical centers, colleges and universities and it would eliminate the existing provision for an exemption based on personal or religious reasons. Our concern is only with the part that removes the religious exemption. I am <u>not</u> here in opposition to the entire bill.

My reason for speaking to you today is the possible effect of this bill on Christian Science families, children and other Christian Scientists who are students in Montana. For some of you who may not be familiar with Christian Science, let me explain.

The Christian Science church is a world-wide church, with approximately 3,200 branches in this country and overseas. Our church was founded over 100 years ago, with headquarters in Boston, Massachusetts. Christian Scientists rely upon God for their total health care. Instead of receiving medical treatment when experiencing an illness or injury, Christian Scientists rely upon spiritual means through prayer for healing. Instead of going to a physician, they engage a Christian Science practitioner to support them in prayer. They also rely on their religion for prevention of disease. So, it is completely within the mainstream of their reliance on God for protection against any kind of harm to ask that they should not have to be innoculated as a pre-condition for attending a school of any kind. That is one of the main points of this bill that concerns us. It requires that all students be innoculated before even starting a school term. This is as compared to the present law, which authorizes students to be kept out of school during a disease outbreak if the student has not been innoculated.

Since the founding of the Christian Science church, there have been several generations of citizens in this state who have totally relied upon Christian Science to meet all their health needs, having never had physical examinations, medical treatment nor taken drugs or medicine of any kind. How would you feel if you were told that your way of life, your spiritual protection from disease, would no longer be recognized in Montana? How would you explain this to your children or grandchildren who have been depending upon prayer to protect them from sickness and contagion? You see, a Christian Science parent feels he is providing the very best care available for the health and well-being of his child. He accepts the responsibility this involves for consistency in the practice of his religion. A Christian Scientist's confidence in God is not passive but active, not theoretical but practical, not occasional but systematic.

Now, let me address just a couple of points about immunization in general. Last year, the American Medical Association recommended elimination of religious provisions for compulsory immunization laws. They proposed that state medical associations take the initiative to eliminate religious accomodations without considering the Constitutional freedom of religion upon which the

provisions are based. And they based their recommendation largely on statistical information. The trouble with their statistics was that they contained a lot of errors and they were not objectively presented, but were selectively used to support their recommendations. An interesting statistic that the AMA glosses over is the incidence of measles among those "appropriately vaccinated." In the year cited by the AMA, 1985, 1,207 cases of measles occurred among people previously vaccinated. That's 79.5% of the nonpreventable cases--as compared to 10.3% of the nonpreventable cases attributed to religious exemptions. Thus, the percentage of cases among those previously vaccinated due to vaccine failure is almost eight times that of the percentage rate among those exempt from the vaccine for religious reasons.

In 1986, which was a more normal year, the Centers for Disease Control (CDC) reported 77 cases of measles attributed to religious exemptions, and 2,377 cases among those appropriately vaccinated. This is a drop in the number of cases among the religiously exempt from 204 cases to 77, a drop of 37.7%. No mention is made of the cases of measles among those "properly vaccinated" increasing from 1,207 in 1985 to 2,377 in 1986. That's an increase of 97% over 1985, which apparently went unnoticed.

My point here is that if Montana Health officials are relying on the AMA statistics, they are probably being misled. As for the situation here in Montana, I don't believe exemptions for religious reasons are anything but a positive factor in the public health of our state. For example, there have been measles outbreaks in the schools of several cities during the past two years. I have yet to learn of a case of measles among Christian Science students. However, during the outbreaks, those who had been exempted from innoculation had to stay home from school or be innoculated. Some of them chose to accept innoculation so they wouldn't miss three or four weeks of school. That was their decision. Under the existing law, they have that choice. Under this bill, that decision is made for them in advance, by the state.

One other point. Universal immunization is an impossible goal. One of the implications of the AMA report is that every student should be innoculated against all of the recommended diseases. Further, that any exception to this recommendation destroys the whole purpose of an immunization program. This is not the case. At least a certain percentage of students, for medical reasons, cannot be immunized. Thus, in no state is the goal of 100 percent immunization realized. For example, in Illinois, a considerably higher percentage of children are exempt from immunization for

medical reasons than are exempt for religious reasons. And in Maryland, religious exemptions represent less than 1/10 of 1% of all students entering grades K-12 during 1984 through 1986. (The actual percentages were .086% and .079%.) Incidentally, here again, diseases among exempted children were far less than for the non-exempted. The rates for the two groups were 0.05 per 100,000 population for the exempted students and 10.32 per 100,000 for the non-exempted students. So, not only is universal exemption unattainable; even if it were, it would be a questionable goal.

In summary, the right to freely practice one's religion is a precious right guaranteed to the citizens of this state by our own Constitution and that of the United States. I do not believe it is the intention of this legislature that this right should be impaired inadvertently by imposing a method of protection on a number of its families which is contrary to their most cherished religious beliefs.

I respectfully request that House Bill No. 364 be amended to continue to protect religious rights in this state. This may be done by amending the bill as follows:

Section 4. Section 20-5-405, MCA, is amended to read: "20-5-405. Religious or medical exemption. (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, signs and files with the governing authority a written statement on an affidavit form prescribed by the department stating under the penalties for perjury according to Section 45-7-201, MCA, that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend school may not be required prior to commencement of attendance in any school. The statement must be maintained as part of the person's immunization records."

Your careful consideration of this request for an amendment will be sincerely appreciated by the Christian Scientists in this state.

EXHIBIT #12
DATE 2-6-89
HB 364

Christian Science Committee on Publication
for Montana

Les Conger
388-4040

10455 Gee Norman Road
Belgrade, MT 59714

January 31, 1989

The Honorable Richard M. Nelson
House of Representatives
Capitol Station
Helena, MT 59620

Dear Mr. Nelson:

Thank you for your prompt response to my phone call concerning House Bill 364.

As I stated during our conversation today, the accomodation in the present MCA 20-5-405 for a student to be exempt from immunization for religious reasons is important to Christian Scientists in Montana. In our case, this is more than a preference for an alternative form of health care -- it is a matter of religious freedom. Also, when a Christian Science child is exempted from vaccination, this does not mean he is unprotected. Our way of worship provides this protection through prayer.

As far as I know, there have been no cases of measles among Christian Science children during the recent outbreaks in Great Falls, Kalispell, and other Montana communities. Christian Science children comprise a very small fraction of those requesting exemption from vaccination in Montana. For example, in Great Falls last year they were about two percent of those who stayed home during the measles epidemic.

If, however, the Health Department sees it as imperative to reduce the total number of exemptions from immunization, I would recommend that the accomodation in the law be made more specific so that it protects religious rights established by the U.S. Constitution, while at the same time providing local health and school officials a more manageable situation in terms of the number of non-vaccinated students in their school systems. The following wording of Section 4 of House Bill 364 is recommended:

SECTION 4. Section 20-5-405, MCA, is amended to read:

"20-5-405. Religious or medical exemption. (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, signs and files with the governing authority a written statement on an affidavit form prescribed by the department stating under the penalties for perjury according to Section 45-7-201, MCA, that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend school may not be required prior to commencement of attendance in any school. The statement must be maintained as part of the person's immunization records."

If you have any question about our position on this proposed legislation, please call me. I appreciate your consideration of this matter, which is so important to our basic freedom of religion. I look forward to meeting you at the committee hearing.

Sincerely yours,

Leslie R. Conger
Christian Science Committee on Publication
for Montana

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL NO. 364 DATE February 6, 1989

SPONSOR R. Nelson

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
LES CONGER	10455 Gee Norman Rd. Belgrade MT 59714		
Donald E Engelke MD	DHES	X	
Richard Poulsen	DFWP	X	
Edward P Nicholson	Kalispell	X	
Michael Anderson	Kalispell	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DISPOSITION OF HOUSE BILL 324

Motion: Rep. Nelson motioned a do pass.

Discussion: None

Amendments, Discussion, and Votes: Rep. Cocchiarella motioned a do pass on the amendment. Rep. Davis explained his amendment. The question was called. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Darko moved HB 324 as amended. The question was called. The motion CARRIED unanimously to DO PASS AS AMENDED.

DISPOSITION OF HOUSE BILL 364

Motion: Rep. Nelson motioned a do pass.

Discussion: None

Amendments, Discussion, and Votes: Rep. Nelson moved the amendments. Rep. Nelson explained his amendments. (See EXHIBIT 17). The motion was to adopt the amendment on line 16. Roll call vote was taken. The motion CARRIED 12/6.

Recommendation and Vote: Rep. Stang moved HB 364 as amended. The question was called. The motion CARRIED unanimously to DO PASS AS AMENDED.

DISPOSITION OF HOUSE BILL 271

Motion: Rep. Wallin moved HB 271.

Discussion: None

Amendments, Discussion, and Votes: The motion was made to adopt the amendments. (See EXHIBIT 18). Roll call vote was taken. The motion FAILED 6/13.

Recommendation and Vote: Rep. Daily motioned to table HB 271. Roll call vote was taken. The motion CARRIED 13/6 to TABLE HB 271.

DISPOSITION OF HOUSE BILL 618

Motion: Rep. Stang moved HB 618

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Stang moved a do pass. Roll call vote was taken. The motion CARRIED 11/8 to DO PASS.

DAILY ROLL CALL

EDUCATION AND CULTURAL RESOURCES COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-13-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ted Schye, Chairman	✓		
Rep. Fritz Daily, Vice-Chair.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Paula Darko	✓		
Rep. Ervin Davis	✓		
Rep. Floyd Gervais	✓		
Rep. Dan Harrington	✓		
Rep. John Johnson	✓		
Rep. Tom Kilpatrick	✓		
Rep. Barry "Spook" Stang	✓		
Rep. Diana Wyatt	✓		
Rep. Bill Glaser	✓		
Rep. Ralph Eudaily	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Richard Simpkins	✓		
Rep. Wilbur Springs, Jr.			✓
Rep. Fred Thomas	✓		
Rep. Norm Wallin	✓		
Rep. Tom Zook	✓		

STANDING COMMITTEE REPORT

February 14, 1989

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 364 (first reading copy -- white) do pass as amended .

Signed: _____
Ted Schye, Chairman

And, that such amendments read:

1. Title, line 10.
Following: "IN"
Insert: "A"
Following: "SCHOOL"
Insert: "OTHER THAN A POSTSECONDARY SCHOOL"

2. Title, lines 11 and 12.
Following: "PERSONAL"
Strike: remainder of line 11 through "RELIGIOUS" on line 12
Following: "GROUNDS;"
Insert: "TO REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY;"

3. Title, line 15.
Following: "REQUIREMENTS;"
Insert: "TO DELETE THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL;"

4. Title, line 15.
Following: "20-5-405,"
Insert: "AND 20-5-408,"

5. Page 2, lines 2 and 3.
Following: "preschool,"
Strike: remainder of line 2 through "university" on line 3
Insert: "or postsecondary school"

6. Page 2, line 12.

Insert: "(6) "Postsecondary school" means a vocational-technical center, a community college, a unit of the Montana university system, or a private university or college."
Renumber: subsequent subsections

7. Page 2, lines 21 and 22.
Following: "individuals,"
Strike: remainder of line 21 through "establishment" on line 22

8. Page 2, lines 23 and 24.
Following: "work of"
Insert: ":
(a)"
Following: "grade 12"
Strike: remainder of line 23 through "university" on line 24
Insert: ";
(b) a postsecondary school; or
(c) a preschool"

9. Page 3, lines 1 and 2.
Following: "required -- "
Strike: remainder of line 1 through "transfers" on line 2
Insert: "release and acceptance of immunization records"

10. Page 3, line 2.
Following: "school"
Insert: "other than a postsecondary school"

11. Page 3, line 10.
Following: "attendance;"
Insert: "or"

12. Page 3, lines 11 through 23.
Following: "exemption"
Strike: remainder of line 11 through line 23
Insert: ".
(2)(a) The governing authority of a postseconday school may not allow any person to commence attendance as a pupil unless the person:
(i) has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or
(ii) files for an exemption.
(b) The governing authority of a postsecondary school may impose immunization requirements as a condition of attendance that are more stringent than those required by [this act]."
(3) A pupil who transfers from one school district to another may photocopy immunization records in the possession of the school of origin. The school district to which a

pupil transfers shall accept the photocopy as evidence of immunization. Within 10 days after a transferring pupil ceases attendance at the school of origin, the school shall send the original immunization records for the pupil to the school district to which the pupil transfers."

13. Page 4, line 1.
Following: "school"
Insert: "other than a postsecondary school"

14. Page 4, line 9
Following: "medical"
Insert: "or religious"

15. Page 4, line 10.
Following: line 10
Insert: "(1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school or the person seeking to attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance each school year, a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school. The statement must be maintained as part of the person's immunization records. A person who falsely claims a religious exemption is subject to the penalty for perjury provided in 45-7-201."
Renumber: subsequent subsections

16. Page 5, line 20.
Following: line 19
Insert: "Section 5. Section 20-5-403, MCA, is amended to read:
"20-5-403. Enforcement. (1) The governing authority of any school other than a postsecondary school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by the department until that pupil has been immunized as required by the department or unless that pupil has been exempted under 20-5-405.
(2) Each governing authority shall file a written report on the immunization status of all pupils under its jurisdiction with the department and the local health department at times and on forms prescribed by the department.
(3) The local and state health departments shall have access to all information relating to immunization of any pupil in any school.""
Renumber: subsequent sections

EXHIBIT 17
DATE 2-13-1989
HB 364

Amendments to HB Bill No. 364
1st Reading Copy

Requested by Rep. Nelson
For the HOuse Committee on Education

Prepared by Andrea Merrill
February 13, 1989

1. Title, line 10.
Following: "IN"
Insert: "A"
Following: "SCHOOL"
Insert: "OTHER THAN A POSTSECONDARY SCHOOL"

2. Title, lines 11 and 12.
Following: "PERSONAL"
Strike: remainder of line 11 through "RELIGIOUS" on line 12
Following: "GROUNDS;"
Insert: "TO REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY;"

3. Title, line 15.
Following: "REQUIREMENTS;"
Insert: "TO DELETE THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL;"

4. Title, line 16.
Following: line 15
Insert: "AND 20-5-408,"

5. Page 2, lines 2 and 3.
Following: "preschool,"
Strike: remainder of line 2 through "university" on line 3
Insert: "or postsecondary school"

6. Page 2, line 12.
Insert: "(6) "Postsecondary school" means a vocational-technical center, a community college, a unit of the Montana university system, or a private university or college."
Renumber: subsequent subsections

7. Page 2, lines 21 and 22.
Following: "individuals,"
Strike: remainder of line 21 through "establishment" on line 22

8. Page 2, lines 23 and 24.
Following: "work of"
Insert: ":
(a)"
Following: "grade 12"
Strike: remainder of line 23 through "university" on line 24

Insert: ";
(b) a postsecondary school; or
(c) a preschool"

9. Page 3, line 2.
Following: "school"
Insert: "other than a postsecondary school"

10. Page 3, line 10.
Following: "attendance;"
Insert: "or"

11. Page 3, lines 11 through 14
Following: "exemption"
Strike: remainder of line 11 through "apply" on line 14

12. Page 3, line 15.
Strike: "(2) A person"
Insert: "(2)(a)The governing authority of a postseconday school may not allow any person to commence attendance as a pupil unless the person:
(i) has been immunized against rubella and measles (rubeola) in the manner and with immunizing agents approved by the department; or
(ii) files for an exemption.
(b) The governing authority of a postsecondary school may impose immunization requirements as a condition of attendance that are more stringent than those required by [this act]."

13. Page 3, lines 16 through 23.
Following: "another"
Strike: remainder of subsection (2)
Insert: "may photocopy immunization records in the possession of the school of origin. The school district to which a pupil transfers shall accept the photocopy as evidence of immunization. Within 30 days after a transferring pupil ceases attendance at the school of origin, the school shall send to the original immunization records for the pupil to the school district to which the pupil transfers."

14. Page 4, line 1.
Following: "school"
Insert: "other than a postsecondary school"

15. Page 4, line 10
Following: line 9
Insert: "or religious"

16. Page 4, line 20.
Following: line 19
Insert: "(1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking

to attend school, or the person seeking to attend school, if an adult, signs and files with the governing authority, prior to the commencement of attendance each school year, a notarized affidavit on a form prescribed by the department stating that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend the school may not be required prior to attendance at the school. The statement must be maintained as part of the person's immunization records. A person who falsely claims a religious exemption is subject to the penalty for perjury provided in 45-7-201.
Renumber: subsequent subsections"

17. Page 5, line 20.
Following: line 19
Insert: "**Section 1.** Section 20-5-408, MCA, is amended to read:
"20-5-408. Enforcement. (1) The governing authority of any school other than a postsecondary school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by the department until that pupil has been immunized as required by the department or unless that pupil has been exempted under 20-5-405.
(2) Each governing authority shall file a written report on the immunization status of all pupils under its jurisdiction with the department and the local health department at times and on forms prescribed by the department.
(3) The local and state health departments shall have access to all information relating to immunization of any pupil in any school. "
Renumber: subsequent sections

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES COMMITTEE

DATE 2-13-89 BILL NO. 364 NUMBER

NAME	AYE	NAY
Rep. Ted Schye, Chairman		✓
Rep. Fritz Daily, Vice-Chairman		✓
Rep. Vicki Cocchiarella		✓
Rep. Paula Darko	✓	
Rep. Ervin Davis	✓	
Rep. Ralph Eudaily	✓	
Rep. Floyd Gervais		✓
Rep. Bill Glaser	✓	
Rep. Dan Harrington		✓
Rep. John Johnson	✓	
Rep. Tom Kilpatrick	✓	
Rep. Richard Nelson	✓	
Rep. John Phillips	✓	
Rep. Richard Simpkins	✓	
Rep. Wilbur Spring, Jr.	Excused	
Rep. Barry "Spook" Stang	✓	
Rep. Fred Thomas		✓
Rep. Norm Wallin	✓	
Rep. Diana Wyatt	Excused	
Rep. Tom Zook	✓	

TALLY 12 6

Claudia Johnson
Secretary

Ted Schye
Chairman

MOTION: The motion was to adopt the amendment on line 16

Form CS-31
Rev. 1985

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, Chairman, on March 10, 1989, at 1:00 in Room 402 at the State Capitol

ROLL CALL

Members Present: Senators: H. W. Hammond, Dennis Nathe, Chet Blaylock, Bob Brown, R. J. "Dick" Pinsoneault, William Farrell, Pat Regan, John Anderson Jr., and Joe Mazurek

Members Excused: None

Members Absent: None

Staff Present: Dave Cogley, Staff Researcher and Julie Harmala, Committee Secretary

Announcements/Discussion:

None

HEARING ON HB 364

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE RICHARD NELSON, House District #6, thanked Chairman Hammond for moving this bill into the Senate Education Committee. It was, he said, originally heard in the House Education Committee and it deals with a school situation which is measles in the schools and so forth. He said he felt the bill would be more appropriate in the Education Committees in its content, than to go to the Health Committee.

He went on to explain that the Montana immunization law has proven effective in reducing disease incidence in Montana school children due to vaccine preventable diseases. HB 364 includes changes that are intended to further reduce the potential for disease introduction into the school system and also allow the county health officer the ability to determine appropriate control measurers including the link of exclusion during an outbreak.

The bill broadened the application of the immunization law from only K-12 schools to other educational settings including post secondary facilities that play an important part in disease transmission. It includes mumps as the necessary vaccine in K-12 schools, it deletes the personal exemption and defines specific procedures and conditions for qualifying for a religious exemption. Medical exemptions are still allowed under the existing rules. It requires a school from which a student is transferring to provide the student with a photo copy of the immunization record for the school to which the transfer is being made and not allow a student to enter without that record. The school of origin must provide the original record within 30 days. It also removes the thirty day exclusion period time limit for those excluded during outbreaks due to lack of immunization. The length of exclusion would be determined by the county health officer as outlined in the communicable disease rules.

List of Testifying Proponents and What Group they Represent:

DONALD E. ESPELIN, M.D., Pediatrician and Chief for the Health Services Bureau, Department of Health and Environmental Sciences
DICK PAULSEN, Manager of the Montana Immunization Program, Montana Department of Health and Environmental Sciences
LES CONGER, Christian Science Committee on Publication for Montana
LEROY SCHRAMM, Legal Council for the Board of Regents

Testimony:

DR. DONALD ESPELIN, (See Exhibit #1)

DICK PAULSEN, (See Exhibit #2)

LES CONGER, (See Exhibit #3)

LEROY SCHRAMM, of the B of R, stated the office of the B of R think that HB 364 especially as it applies to high school students narrowing the exemption is the best thing this bill does. If there is virtually universal immunization at the high school level, this problem will pretty much be taken care of at the college level. The extension of coverage to the colleges and universities as far as the six campuses of the university are concerned is immaterial because in December the Regents passed a policy that made measles and rubella immunization mandatory for anyone entering any of the six units of the university system. Mr. Schramm said the Regents are not opposed, it does parallel the B of R policy which may be viewed a unnecessary.

For informational purposes, he explained that this will require a change of policy on two of three types of school campuses around the state. Rocky Montana College already requires measles and rubella immunization but Carroll College and the College of Great Falls do not. This would also require the change of policy for the community college and the Vo Tech schools.

"All in all," Mr. Schramm said, "we think the bill is a real step forward."

List of Testifying Opponents and What Group They Represent:

None

Questions From Committee Members:

Senator Farrell asked how long after the shot does the immunization take effect. Dr. Espelin replied that there must be a chance given to build up an immunity, which is "some weeks depending on the person's ability."

Senator Farrell asked what would happen if someone moves into the state and they do not have this immunization record. Dr. Espelin replied that the student would get immunized and be admitted into school. This is the same method used on outbreak control when people are excluded from school, they are immunized and allowed back to school. He explained that the reason it is done this way is that it causes the least amount of disruption in the community and maximizes the public health benefits.

Senator Farrell asked if it was the same with mumps, that are now included in the bill. Dr. Espelin replied yes but that mumps was not a disease of the elderly as much.

Senator Regan asked if an outbreak were to occur would a student with a religious exemption be admitted to the school or would they be required to go home. Dr. Espelin explained that the way an outbreak is handled is that all susceptible are excluded from school until the outbreak is over. The outbreak that is "declared over thirty days after the last rash on set." He said that no matter for what reason a child is not immunized they would be excluded until they were immunized or the outbreak was controlled.

Senator Regan asked if the religious exemption simply is an exemption for not requiring the immunization for admittance into school but once the outbreak takes place there is no religious exemption other than staying at home. Dr. Espelin agreed.

Senator Blaylock asked if on getting the religious exemption is all they have to do is say they want a religious exemption or is it required that they be a member of a church that objects to this. Dr. Espelin replied that his understanding was it needed to be notarized. Senator Blaylock asked if a student could just say, "I don't believe in it religiously." Mr. Conger replied that on Page 6, it refers to the fact that they must present a notarized affidavit on a form prescribed by the Department, saying that immunization is contrary to religious practices of the science.

Senator Blaylock stated that even with this, they could still just say, "I object religiously." Mr. Conger replied that they could if they wanted to perjure themselves.

Senator Pinsoneault said that it was his understanding that perjury occurs only at a judicial proceeding and by a witness, who under oath, testifies to a material matter.

Senator Mazurek asked if the House Education Committee deliberately made this a felony offense. Representative Nelson replied that he did not recall it coming up as to what class of offense it would be, there was concern with the stating of a religious reason for not being immunized and have this presented to the school.

Senator Brown asked about the measles outbreak in Kalispell, when a student's parent objected to immunize just because they were a counter culture family. They were not from an organized religion so he wondered if this would be considered a "religious belief or a personal belief." He wondered if the student could go to a notary. Mr. Conger stated that the intent of the amendment to the bill was that this be used by religions which includes spiritual healing only. Senator Brown asked if a person must be a member of some organized religion or could they claim to be a "nature worshiper." Rep. Nelson repeated that it was his understanding that it had to be a well recognized religion which includes spiritual healing.

Senator Mazurek asked who it was that had put in perjury. Mr. Conger replied that this was offered to them by the legal department in the Christian Science Mother Church. If a misdemeanor would be more appropriate this would be something that could be changed. He said that there was no way a Christian Scientist could perjure himself on this, therefore he said they had no concern at this point.

Senator Pinsoneault suggested that "false swearing" be included in the Title of the bill. Chairman Hammond stated

that if there was no objection this would be considered done.

Senator Mazurek asked that since this bill included pre schools, he wondered if licensed day care should be considered. Mr. Paulsen replied that presently there were rules written by the department that the law for day care is enforced by SRS and there are rules related to licensed day cares. He said that whenever there was an organized group of children there were rules relating to a licensed day care. Senator Mazurek asked if these rules related to immunization and Mr. Paulsen replied that they do.

Closing by Sponsor:

REPRESENTATIVE NELSON closed by saying that he feels this is a critical matter. In Kalispell the measles outbreak cost $10,000 in cash outlay for funding and these were funds that they did not have. Some fund transferring had to be done within the county. It also cost $34,000 worth of staff time, which they had to take care of through comp time. He said this shows what an expensive proposition this was.

DISPOSITION OF HB 364

Discussion:

Senator Regan said that there had been some reference to $400,000 and she wondered if there was some money someplace for this debt. Dr. Espelin replied that the immunization program gets its vaccine from CBC Laboratories and the program is funded by them. This coming year anyone in the state born after 1957 must be immunized and not immunized for measles after 1980. There will be a $400,000 shortfall in the program, meaning that every bit of available vaccine will be used.

Senator Nathe ask where the money comes from. Dr. Espelin said that a grant from CBC is applied for and they supply the money. Mr. Paulsen added that the grant amount to the vaccine portion is over $600,00, but the total grant was $700,000. (This includes, DPT, Polio, NMR, MOR, HIT vaccines).

Amendments and Vote:

Senator Pinsoneault moved that the offense would be "false swearing" rather than "perjury."

Without objection the MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote:

Senator Blaylock moved that HB 364 do pass.

Senator Nathe called for the question.

THE MOTION CARRIED UNANIMOUSLY.

Senator Brown will carry HB 364 to the floor of the Senate.

DISPOSITION OF HB 299

Discussion:

Senator Regan suggested that HB 299 needs an amendment if it is going to be passed. She said she favors passage of the bill because in the large school districts there are problems where there is preponderance of trustees coming from one area. It is not that this is bad, she said, but there should be a feeling in all the districts that the people have someone to go to, rather than being ignored and excluded. She gave the example of the situation in the Billings Heights area where there is no represenatation on the board and it would be the seventh largest city in the state (in terms of population), if it was considered a separate city. The amendment Senator Regan suggested would be a non resident requirement, so the person running for the board would not have to live in the district for which they ran.

Senator Pinsoneault commented that he had not heard anything favorable about the bill. He added that he felt this was a big city bill.

Senator Mazurek commented that he felt if a non residency requirement was put in, it almost defeated the idea of the bill. Senator Regan responded by saying that a Representative or a Senator may run out of the district providing the district does not cross county lines and she said she feels they do a good job representing the district's constituency.

EDUCATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date 3-10-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Swede Hammond	✓		
Vice Chairman Dennis Nathe	✓		
Senator Chet Blaylock	✓		
Senator Bob Brown	✓		
Senator Dick Pinsoneault	✓		
Senator William Farrell	✓		
Senator Pat Regan	✓		
Senator John Anderson Jr.	✓		
Senator Joe Mazurek	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 13, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 364 (third reading copy -- blue), respectfully report that HB 364 be amended and as so amended be concurred in:

Sponsor: Nelson, R. (Brown)

1. Title, line 15.
Strike: "PERJURY"
Insert: "FALSE SWEARING"

2. Page 6, line 17.
Strike: "PERJURY"
Insert: "false swearing"
Strike: "45-7-201"
Insert: "45-7-202"

AND AS AMENDED BE CONCURRED IN

Signed: _____
H. W. Hammond, Chairman

3:13:89

SCREB364.313

SENATE EDUCATION
EXHIBIT NO. 1
DATE 3-10-89
BILL NO. HB 364

March 1989

TESTIMONY FOR THE SENATE COMMITTEE ON EDUCATION
AND CULTURAL RESOURCES
HB 364

Mr. Chairman and Members of the Committee, I am Donald E. Espelin, M.D., pediatrician here in Helena and currently Chief, Preventive Health Services Bureau, Department of Health and Environmental Sciences.

The Department has proposed this bill to give us a better chance at reducing or eliminating vaccine-preventable disease. The recent outbreak in Flathead and Silver Bow counties put our backs against the wall. We ran out of money, manpower and vaccine. We simply have to reduce the impact of such outbreaks.

We are currently looking at a short fall this next year of $400,000.00. This amount of vaccine would bring our state in line with current public health measles immunization levels. I would like to introduce you, Mr. Dick Paulsen, the program manager for our Immunization Program. Thank you.

DEE/vg-2xt

SENATE EDUCATION
EXHIBIT NO. 2
DATE 3-10-89
BILL NO. HB 364

March 1989

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
FOR THE SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

MONTANA IMMUNIZATION LAW TESTIMONY
HB 364

Chairman Hammond and Committee members, I am Dick Paulsen and I submit this testimony, as the manager of the Montana Immunization program, on behalf of the Montana Department of Health and Environmental Sciences.

The Montana Immunization Law has proven effective in reducing illness due to vaccine-preventable diseases in Montana School children. These proposed legislative changes are intended to reduce the potential for disease introduction into the school system and allow the county health officer the ability to determine appropriate control measures, including length of exclusion, during an outbreak. These changes are based upon our recent experiences with disease introduction and the continuation of outbreaks that have occurred in Montana since the enactment of the Montana Immunization Law in 1980. Proposed changes in the law include; 1) broadening of the application of immunization law from only K-12 schools to other educational settings that play an important part in disease transmission, 2) it defines "pre-school" for use in the law, 3) it includes mumps as a necessary vaccine, 4) it removes the personal exemption, 5) it removes the 30-day exclusion period for those excluded during outbreaks. The length of exclusion would then be determined by the county health officer who is responsible to determine what is necessary to control communicable disease outbreaks.

The bill was amended in the House to reinstate the religious exemption which the Department originally wanted to remove. The Glacier County measles outbreak in 1985 (137 cases) was started due to a religious exemption. The Department is willing to accept the amendment that puts the religious exemption back into the law as found in this bill. However, we will reassess our position with the next, legislature if if it is found that the religious exemption leads to future disease outbreaks in Montana.

The Department also favors the House amendment that removes the 30 day transfer period for immunization records which was, in part, responsible for the recent measles outbreak in Flathead County. This amendment was recommended by a school superintendent in Kalispell. The schools will now copy the immunization record and give the copy to the student. Allowing a 30 day period for the original copy of the record to be transferred is a sensible approach for both getting the record to the school and helping keep disease out of the school.

The personal exemption played an important part in starting the 1987 statewide measles where 127 measles cases occurred. It started in Great Falls and was initiated by a student with a personal exemption. Following the 1987 outbreak, a "measles critique" was sponsored by the Department which included six major health departments (Cascade, Missoula, Flathead, Lewis and Clark, Yellowstone, and Silver Bow Counties) and representatives from the Indian Health Service and the Centers for Disease Control in Atlanta, Georgia. From that critique came a strong recommendation to remove the personal and religious exemptions from the Immunization Law. The Department has also received communication from the County Health Departments and Montana Medical Association supporting a removal of the exemptions. Montana is in the minority of states that do allow philosophical (personal) exemptions. Presently, 28 states do not allow philosophical exemptions for school entry.

What actually happens during an outbreak demonstrates how the exemptions are being abused. During the recent outbreak in Flathead County, there were 15 Flathead County High School students that had claimed personal exemptions and two that had claimed religious exemptions for measles for school entry. Upon exclusion from school, due to the outbreak, all students had returned to school as immunized except for one student who stayed out for the entire period due to a religious exemption. In the Great Falls outbreak in 1987, there were 21 personal and 13 religious exemptions in the junior high and high schools in Great Falls. Once those students were excluded due to the outbreak, all except for three students returned to school immunized. It is easier for the parents to sign an exemption rather than to take action to immunize their child. This puts the rest of the school system and communities at unnecessary risk to vaccine-preventable diseases.

March 1989

There have been ten measles or rubella outbreaks on college campuses in Montana since 1976. This includes outbreaks, since 1987, effecting with both universities at Bozeman and Missoula, Rocky Mountain College, Eastern Montana College, and Flathead Valley Community College. Remember, measles is most serious in adults. At Principia College (a Christian Science college) in Illinois, in 1985, there were three deaths in students due to measles. Since rubella has its most serious consequence related to pregnancy, it's very important to ensure that the college age group is well immunized against rubella. It has been extremely frustrating and difficult to stop measles outbreaks on college campuses when there is no required documentation of immunization for students.

College immunization requirements have been recommended by the Advisory Committee on Immunization Practices* (ACIP) since 1980 and the American College Health Association since 1983. The Board of Regents has recently developed a policy for implementing a measles and rubella immunization requirement for all students in the university system. The Department has met with the Commissioner of Higher Education several times and have agreed that the primary focus for the law, on prevention of vaccine preventable diseases in this population, is measles and rubella. Both of the Montana universities have already adopted similar requirements for entry. The proposed change in the law is intended to cover <u>all</u> post-secondary schools including those not in the university system. Post-secondary facilities have played an important part in measles outbreaks, not only in the United States but in Montana.

Mumps was not included in the original draft of the immunization law primarily due to the fact that the immunization program was not able to provide mumps vaccine to all school-aged children due to cost. The program now provides mumps vaccine in the combined MMR vaccine. MMR is the vaccine of choice and is received by all children when they receive measles and rubella vaccination. Including mumps in the law would not be difficult for schools as they already have information on mumps vaccine included on the immunization records.

———— *Note: The ACIP is the group which sets the standard for public health practices related to immunization in the U.S.

Pre-school and head start are also not included presently in the requirements for immunization laws and rules. There are some schools which have a pre-school within the school facility as listed in the Directory of Montana Schools published by the Office of Public Instruction. This is a dangerous mixture of potentially un-immunized children in a school setting.

Exclusion period being limited to 30 days in the law is contrary to what is recommended for outbreak control by the Centers for Disease Control. Un-immunized students should not be allowed into a school even if an outbreak continues past 30 days. During the recent outbreak in Kalispell, the situation arose where a student wanted to return to school after the 30-day period but still had not been immunized. The county health officer had to apply to the parent for the parent to decide not to send the children on their own accord. Local Health officers have the authority, by the Administrative Rules of Montana, to do what is necessary to control communicable disease in their county. The determination, on when the return should occur, should be made by a County Health Officers. Should the child return to school and develop measles because the law says they can return, the following could happen: 1) the child would be unnecessarily exposed to a dangerous disease, 2) the outbreak would continue with possible spread of the disease to others (especially other un-immunized siblings), and 3) the parents may have legal recourse against the state of Montana should the child get measles due to their return to school as presently allowed by the Montana Immunization Law.

In closing, Montana has experienced some serious problems related to vaccine-preventable diseases. We, in Montana, have been very lucky in that we have not had anybody die during our measles outbreaks. Texas is not so fortunate. In the current outbreak in Texas, there have been as many as five deaths that may be directly related to measles. This included a 21 year old who was 21 weeks pregnant. There was a child that died due to pertussis in Ravalli county in 1986. The Montana Immunization Law has played an important part in reducing the occurrence and subsequently the consequence of vaccine-preventable diseases. Apparently maintaining high immunization levels alone is not good enough. We have to keep these diseases from being seeded in our schools. Once a disease

like measles gets into a school, it can spread very quickly as was seen again this year in the Flathead measles outbreak. The Montana School Immunization Law needs to be strengthened so that the potential for disease introduction into our population can be reduced. If these proposed changes are acted upon favorably, it would be a major step in ensuring the health and safety of Montanans. Your consideration is appreciated.

REP/vg-106d

(Testimony at first hearing, February 6, 1989; House Committee on ~~Publication.~~ Education)

SENATE EDUCATION
EXHIBIT NO. 3
DATE 3-10-89
BILL NO. HB 364

STATEMENT

House Bill 364 to expand school immunization requirements

My name is Les Conger. I am the Christian Science Committee on Publication for Montana. In this position I speak on behalf of those Montanans who are adherents of the Christian Science religion. One important part of my duties concerns legislation, that is watching proposed bills to insure the right of Christian Scientists to practice their religion free from restrictions or limitations.

I am grateful for the opportunity to make this statement today regarding House Bill 364. The author and sponsors of this bill obviously are concerned about the health of students in our schools statewide and curbing the spread of disease. The existing laws which this bill would change do give public health officials the authority to require students in public schools to be immunized. This bill would expand the coverage to include preschools, vocational-technical centers, colleges and universities and it would eliminate the existing provision for an exemption based on personal or religious reasons. Our concern is only with the part that removes the religious exemption. I am <u>not</u> here in opposition to the entire bill.

My reason for speaking to you today is the possible effect of this bill on Christian Science families, children and other Christian Scientists who are students in Montana. For some of you who may not be familiar with Christian Science, let me explain.

The Christian Science church is a world-wide church, with approximately 3,200 branches in this country and overseas. Our church was founded over 100 years ago, with headquarters in Boston, Massachusetts. Christian Scientists rely upon God for their total health care. Instead of receiving medical treatment when experiencing an illness or injury, Christian Scientists rely upon spiritual means through prayer for healing. Instead of going to a physician, they engage a Christian Science practitioner to support them in prayer. They also rely on their religion for prevention of disease. So, it is completely within the mainstream of their reliance on God for protection against any kind of harm to ask that they should not have to be innoculated as a pre-condition for attending a school of any kind. That is one of the main points of this bill that concerns us. It requires that all students be innoculated before even starting a school term. This is as compared to the present law, which authorizes students to be kept out of school during a disease outbreak if the student has not been innoculated.

Since the founding of the Christian Science church, there have been several generations of citizens in this state who have totally relied upon Christian Science to meet all their health needs, having never had physical examinations, medical treatment nor taken drugs or medicine of any kind. How would you feel if you were told that your way of life, your spiritual protection from disease, would no longer be recognized in Montana? How would you explain this to your children or grandchildren who have been depending upon prayer to protect them from sickness and contagion? You see, a Christian Science parent feels he is providing the very best care available for the health and well-being of his child. He accepts the responsibility this involves for consistency in the practice of his religion. A Christian Scientist's confidence in God is not passive but active, not theoretical but practical, not occasional but systematic.

Now, let me address just a couple of points about immunization in general. Last year, the American Medical Association recommended elimination of religious provisions for compulsory immunization laws. They proposed that state medical associations take the initiative to eliminate religious accomodations without considering the Constitutional freedom of religion upon which the

provisions are based. And they based their recommendation largely on statistical information. The trouble with their statistics was that they contained a lot of errors and they were not objectively presented, but were selectively used to support their recommendations. An interesting statistic that the AMA glosses over is the incidence of measles among those "appropriately vaccinated." In the year cited by the AMA, 1985, 1,207 cases of measles occurred among people previously vaccinated. That's 79.5% of the nonpreventable cases--as compared to 10.3% of the nonpreventable cases attributed to religious exemptions. Thus, the percentage of cases among those previously vaccinated due to vaccine failure is almost eight times that of the percentage rate among those exempt from the vaccine for religious reasons.

In 1986, which was a more normal year, the Centers for Disease Control (CDC) reported 77 cases of measles attributed to religious exemptions, and 2,377 cases among those appropriately vaccinated. This is a drop in the number of cases among the religiously exempt from 204 cases to 77, a drop of 37.7%. No mention is made of the cases of measles among those "properly vaccinated" increasing from 1,207 in 1985 to 2,377 in 1986. That's an increase of 97% over 1985, which apparently went unnoticed.

My point here is that if Montana Health officials are relying on the AMA statistics, they are probably being misled. As for the situation here in Montana, I don't believe exemptions for religious reasons are anything but a positive factor in the public health of our state. For example, there have been measles outbreaks in the schools of several cities during the past two years. I have yet to learn of a case of measles among Christian Science students. However, during the outbreaks, those who had been exempted from innoculation had to stay home from school or be innoculated. Some of them chose to accept innoculation so they wouldn't miss three or four weeks of school. That was their decision. Under the existing law, they have that choice. Under this bill, that decision is made for them in advance, by the state.

One other point. Universal immunization is an impossible goal. One of the implications of the AMA report is that every student should be innoculated against all of the recommended diseases. Further, that any exception to this recommendation destroys the whole purpose of an immunization program. This is not the case. At least a certain percentage of students, for medical reasons, cannot be immunized. Thus, in no state is the goal of 100 percent immunization realized. For example, in Illinois, a considerably higher percentage of children are exempt from immunization for

medical reasons than are exempt for religious reasons. And in Maryland, religious exemptions represent less than 1/10 of 1% of all students entering grades K-12 during 1984 through 1986. (The actual percentages were .086% and .079%.) Incidentally, here again, diseases among exempted children were far less than for the non-exempted. The rates for the two groups were 0.05 per 100,000 population for the exempted students and 10.32 per 100,000 for the non-exempted students. So, not only is universal immunization unattainable; even if it were, it would be a questionable goal.

In summary, the right to freely practice one's religion is a precious right guaranteed to the citizens of this state by our own Constitution and that of the United States. I do not believe it is the intention of this legislature that this right should be impaired inadvertently by imposing a method of protection on a number of its families which is contrary to their most cherished religious beliefs.

I respectfully request that House Bill No. 364 be amended to continue to protect religious rights in this state. This may be done by amending the bill as follows:

Section 4. Section 20-5-405, MCA, is amended to read: "20-5-405. Religious or medical exemption. (1) When a parent, guardian, or adult who has the responsibility for the care and custody of a minor seeking to attend school, or the person seeking to attend school, if an adult, signs and files with the governing authority a written statement on an affidavit form prescribed by the department stating under the penalties for perjury according to Section 45-7-201, MCA, that immunization is contrary to the religious tenets and practices of the signer, immunization of the person seeking to attend school may not be required prior to commencement of attendance in any school. The statement must be maintained as part of the person's immunization records."

Your careful consideration of this request for an amendment will be sincerely appreciated by the Christian Scientists in this state.

WITNESS STATEMENT

Exhibit 3

NAME: Les Conger DATE: 10 Mar 89

ADDRESS: 10455 Gee Norman Rd. Belgrade 59714

PHONE: 388-4040

REPRESENTING WHOM? Christian Science Churches of MT

APPEARING ON WHICH PROPOSAL: HB 364

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: The religious exemption is very important to us. The bill as presented preserves religious freedom.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HB364

NAME: Marcia Youngman DATE: 3/10/89

ADDRESS: 1214 W Koch Bozeman

PHONE: 587-5704

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: HB364

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: I support this bill if the religious exemption currently included in the bill remains intact.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE 3-10-89

COMMITTEE ON Education (1:00 M W F)

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Les Conger	CS Committee on Pub	HB364	X	
Donald Eagleson	DHES	HB 364	X	
Marian Youngman	Myself	HB364	X (without amendment)	

(Please leave prepared statement with Secretary)